

REMARKS

In the Office Action the Examiner noted that claims 1-42 were pending in the application and the Examiner rejected all claims. By this Amendment, various claims have been amended, claim 42 has been cancelled and new claim 43 has been added. Thus, claims 1-41 and 43 remain pending in the application. The Examiner's rejections are traversed below.

Rejection of Claim 26

In item 3 on page 2 of the Office Action the Examiner rejected claim 26 under 35 U.S.C. §102 as anticipated by U.S. Patent 6,459,774 to Ball et al.

The Ball patent is directed to a structured voicemail message that includes a plurality of messaging elements. The messaging elements including textual fragments, speech fragments and audio files. The message including these elements, is delivered to an address indicated in the message of the recipient's mailbox on a messaging system (column 1, line 56 to column 2, line 13). As discussed in columns 7 and 8, the structured message may include a voice message together with music played in the background (column 7, line 65 and column 8, lines 40-52).

In the rejection, the Examiner took the position that because claim 26 was written in alternative form, only one of the limitations following the "at least one" language was required. By this Amendment, claim 26 has been amended to specify that the message area contains at least a voice message and each of the following:

- an audio stationary header preceding the message area,
- an audio stationary footer following the message area, and
- an audio stationary body occurring at least once in said message area in combination with the voice message.

It is submitted that Ball et al. does not teach or suggest the combination of all three features specified above. Therefore, it is submitted that claim 26 patentably distinguishes over the prior art.

Rejection of Claims 27, 28 and 39 Under 35 U.S.C. § 102

In item 4 on pages 2 and 3 of the Office Action the Examiner rejected claims 27, 28 and 39 under 35 U.S.C. § 102 as anticipated by U.S. Patent Publication 2002/0032752 to Gold et al.

The Gold et al. publication is directed to a system and method to send dedications of popular songs through a communications medium such as the Internet.

The Gold et al. publication states that a sender is given a phone number to leave a dedication message 28 in the form of a voice message. The voice message in combination with a dedicated song creates a complete dedication.

In contrast to Gold et al., the apparatus of claim 27 includes a processor which provides sound samples to a user and which combines a selected sound sample with a recorded voice message to form a combination message including sound and voice. This is significantly different from the song dedication arrangement of Gold et al. in which the voice message and the song are not combined. Therefore, it is submitted that claim 27 (and claim 28 which depends from claim 27) patentably distinguish over the prior art.

Claim 39 is directed to a voice mail platform which includes:

means for combining a selected sound sample with a recorded voice message to form a combination message.

Therefore, it is submitted that claim 39 patentably distinguishes over Gold et al.

Rejection of Claim 42 Under 35 U.S.C. § 102

In item 5 on pages 3 and 4 of the Office Action the Examiner has rejected claim 42 as unpatentable over the prior art. Claim 42 has been cancelled.

The Obviousness Rejections

In items 9 and 10 on pages 5-12 of the Office Action the Examiner has rejected claims 1-6, 7-25, 29, 38, 40 and 41 under 35 U.S.C. § 103 as unpatentable over the Gold patent publication in view of either the Ball et al. patent or U.S. Patent Publication 2001/0050977 to Gerszber. Of the above claims, claim 1, 40 and 41 are independent claims.

Claim 1

On page 5 of the Office Action the Examiner takes the position that the song dedication arrangement disclosed in Gold corresponds to selecting a sound sample to form a combination message. However, the Examiner acknowledges that Gold does not teach that the sound

sample is a background sound. The Examiner takes the position that this feature is taught by Ball, and that it would have been obvious to modify the method of Gold by adding sound samples to the background "so that the user can listen to inspirational music along with the voice message dedication."

It is submitted that there is nothing in the prior art which would have led one of ordinary skill to modify the Gold reference in the manner suggested by the Examiner. In Gold et al., the voice message and the selected song are two separate entities identified by separate URLs which point separately to the voice dedication and the dedicated song. In contrast, Ball et al. is directed to a structural message arrangement. Therefore, the playing of inspirational background music in combination with a voice message would be inconsistent with the structure and operation of the Gold patent. Therefore, it is submitted that claim 1 patentably distinguishes over the prior art.

Claims 2-25 and 29-38

Claims 2-25 and 29-38 depend, directly or indirectly from one of the independent claims identified above, and include all of the features of the claim from which they depend, plus additional features which are not taught or suggested by the prior art. Therefore, it is submitted that these claims patentably distinguish over the prior art.

Claim 40

Claim 40 is directed to a method for providing ambient sound to a recorded voice message in which the voice message is added to a selected sound to form a combination message wherein the sound sample is looped for a duration equaling a duration of the voice message.

On page 10 of the Office Action the Examiner acknowledges that Gold does not teach that a sound sample is looped for a duration equaling a duration of the voice message. However, the Examiner at page 11 takes the position that Ball teaches looping a selected sound sample at column 7, lines 64-65 and column 8, lines 41-52.

Column 7, lines 64-65 of Ball et al. state:

Audio content may be sequential with other content in the structured message, or played in the background.

Column 8, lines 41-52 of Ball et al. state:

(inspiration music plays in background...)

“This is a message for Peter Mataga from the Training Organization. Thank you for registering for the course UM301: Advanced Unified Messaging. The course will take place Jan. 26, 1999 from 3:00 pm to 5:00 pm”. The text fragments “Peter Mataga”, “UM301: Advanced Unified Messaging” and “Jan. 26, 1999 from 3:00 pm to 5:00 pm” are converted to speech. The background music and the audio fragments “This is a message for”, “from the training organization”, “Thank you for registering for”, “the course”, and “will take place” are generated by playing the audio files of appropriate names (identified in the mark up), after the detaching them from the structured message.

It is submitted that there is nothing in the above-identified portions of the Ball et al. patent which would suggest the looping feature of the present claimed invention. Therefore, it is submitted that claim 40 patentably distinguishes over the prior art.

Claim 41

Claim 41 is directed to a method of adding background sound to a greeting comprising:
combining the selected sound sample with a recorded greeting to
form a combination greeting.

For the reason set forth above with respect to claim 1, it is submitted that claim 41 patentably distinguishes over the prior art.

New Claim 43

New claim 43 is directed to a method of combining sound with a recorded voice message which includes:

combining the voice message with the selected sound sample to
form a combination message, the selected sound sample being
looped for a duration corresponding to a duration of the voice
message.

Therefore, it is submitted that claim 43 patentably distinguishes over the prior art.

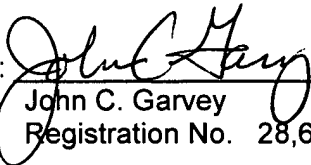
Summary

It is submitted that none of the references, either taken alone or in combination teach the present claimed invention. Thus, claims 1-41 and 43 are deemed to be in a condition suitable for allowance. Reconsideration of the claims and an early notice of allowance are respectfully submitted.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 3-3-05

By: 
John C. Garvey
Registration No. 28,607

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1500